

Mr. Jason Smith
Reg. No. 13786-424
Federal Correctional
Institution, Beckley
P.O. Box 350
Beaver, WV 25813

May 7, 2003

The Honorable Magistrate Judge
R. Clarke VanDervort
United States District Court
Southern District of West Virginia
Drawer 5009
Beckley, WV 25801

RE: Determination of Indigency by
U.S. Magistrate-Inmate in
Federal Institution

Dear Magistrate VanDervort:

I direct this writing in accordance with 28 C.F.R. §571.53 requesting a determination of indigency. In support of this request, I provide the following background information.

I was sentenced in the United States District Court For The Eastern District of Michigan to a term of imprisonment for 46 months, and 3 years Supervised Release. A Special Assessment in accordance with Title 18 USC §3013 in the amount of \$100.00.

I have not been able to pay that special assessment due to lack of resources outside of prison and the fact that the Bureau of Prisons has place me in FRP refusal status pursuant to Bureau of Prison Program Statement 5380.07 and I cannot receive Institutional pay over \$5.25 per month.

As a result of my FRP status I am assigned to a 12-man cell, without a chair or desk for writing. Inmates that are able to pay their FRP (special assessment) are assigned to a two (2) man room with a chair and desk for writing.

My failure to pay the special assessment fine hinders transfer to a lower level institution and will prevent placement in a Community Corrections Center (Half-way House).

In light of the above, it affects my self esteem as a human being. To be poor is one thing, but to be punished because I am poor is entirely a different matter.

Enclosed is a copy of my Inmate Account Statement. As you can see I received \$50.00 on December 30, 2002, which does not amount to much over a five (5) month period.

RECEIVED

MAY 14 2003

5:03-0484 U.S. MAGISTRATES OFFICE

FILED

MAY 29 2003

SAMUEL L. KAY, CLERK
U.S. District & Bankruptcy Court
Southern District of West Virginia

While I am not exclusively detained for failure to pay the special assessment, the adverse effects are the same as if I was detained under §3569. I am being punished solely for the non-payment of a fine because I am poor.

I believe this action by the Bureau of Prisons violates the Eighth Amendment of the United States Constitution which prohibits cruel and unusual punishment.

Your attention to this matter under the appropriate judicial form will be deeply appreciated.

Sincerely,

Jason Smith

Jason Smith

Inmate Statement



Inmate Reg #: 13786424
 Inmate Name: SMITH, JASON
 Report Date: 05/06/2003
 Report Time: 12:07:55 PM

Current Institution: Beckley FCJ
 Housing Unit: POPLAR
 Living Quarters: A05-905U

Alpha Code	Date/Time	Reference#	Payment#	Receipt#	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
BEC	12/5/2002 5:18:02 PM				Conversion	\$1.72		\$1.72
BEC	12/23/2002 6:45:36 PM	ITS1223			ITS Withdrawal	\$(1.00)		\$0.72
BEC	12/30/2002 3:29:25 PM	4020		58973	Local Collections	\$50.00		\$50.72
BEC	12/30/2002 5:13:24 PM	ITS1230			ITS Withdrawal	\$(5.00)		\$45.72
BEC	1/2/2003 8:43:49 PM	ITS0102			ITS Withdrawal	\$(5.00)		\$40.72
BEC	1/3/2003 9:46:37 AM	23			Sales	\$(18.05)		\$22.67
BEC	1/4/2003 8:48:46 PM	ITS0104			ITS Withdrawal	\$(5.00)		\$17.67
BEC	1/6/2003 9:56:22 AM	JV0078			Payroll - IPP	\$5.25		\$22.92
BEC	1/6/2003 5:18:38 PM	ITS0106			ITS Withdrawal	\$(3.00)		\$19.92
BEC	1/9/2003 6:48:57 PM	ITS0109			ITS Withdrawal	\$(5.00)		\$14.92
BEC	1/10/2003 9:50:56 AM	26			Sales	\$(10.50)		\$4.42
BEC	1/11/2003 7:06:46 PM	ITS0111			ITS Withdrawal	\$(4.00)		\$0.42
BEC	2/3/2003 8:33:01 AM	JV0104			Payroll - IPP	\$5.25		\$5.67
BEC	2/3/2003 11:14:01 PM	ITS0203			ITS Withdrawal	\$(3.00)		\$2.67
BEC	2/5/2003 5:10:36 PM	ITS0205			ITS Withdrawal	\$(1.00)		\$1.67
BEC	2/5/2003 6:08:04 PM	ITS0205			ITS Withdrawal	\$(1.00)		\$0.67
BEC	3/3/2003 8:12:51 AM	JV0303			Payroll - IPP	\$5.25		\$5.92
BEC	3/3/2003 10:08:31 AM	OS0037			FRP Quarterly Pymt	\$0.00		\$5.92
BEC	3/3/2003 5:23:13 PM	ITS0303			ITS Withdrawal	\$(2.00)		\$3.92
BEC	3/4/2003 5:10:03 PM	ITS0304			ITS Withdrawal	\$(2.00)		\$1.92
BEC	3/7/2003 9:42:37 AM	33			Sales	\$(1.85)		\$0.07
BEC	4/7/2003 10:10:55 AM	JV0411			Payroll - IPP	\$5.25		\$5.32
BEC	4/7/2003 6:18:38 PM	ITS0407			ITS Withdrawal	\$(2.00)		\$3.32
BEC	4/8/2003 7:02:43 PM	ITS0408			ITS Withdrawal	\$(1.00)		\$2.32
BEC	4/8/2003 9:04:39 PM	ITS0408			ITS Withdrawal	\$(1.00)		\$1.32
BEC	4/10/2003 7:59:05 PM	ITS0410			ITS Withdrawal	\$(1.00)		\$0.32
BEC	5/5/2003 11:51:41 AM	JV0506			Payroll - IPP	\$5.25		\$5.57
BEC	5/5/2003 11:23:47 PM	ITS0505			ITS Withdrawal	\$(1.00)		\$4.57